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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/967,249	09/28/2001	Darren DeWall	60,518-010	6563

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EXAMINER

COBURN, CORBETT B

ART UNIT PAPER NUMBER

3714

DATE MAILED: 07/10/2003

*11*

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/967,249

Applicant(s)

DEWALL ET AL.

Examiner

Corbett B. Coburn

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 25 April 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-43 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-43 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 September 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

DETAILED ACTION

*Specification*

1. Applicant has amended the title to overcome Examiner's objection, which is hereby withdrawn.

*Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-11, 20-32 & 41-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Payne et al. (US Patent Number 6,241,607) in view of Giobbi et al. (US Patent Number 6,155,925).

**Claims 1, 20, 41, 43:** Payne teaches a gaming machine with means for accepting a wager (54) from a player. There is a display for displaying one of a plurality of symbols (Col 1, 31) in each of a plurality of cells (Fig 2). Payne teaches a random generator for randomly selecting a symbol to be displayed in each of said cells independently of the random selection of a symbol in each of the other cells (Col 2, 24-28). Fig 2a discloses the functions of a game control for controlling game play in a primary game mode and for controlling images displayed on the display (58), detecting the presence of a predetermined winning combination of symbols (60), and for awarding a prize in response to a winning combination (64), and a selector for allowing a player to select the

number of cells to be evaluated (50) by the game control to detect the presence of a winning combination within the selected number of cells.

Payne teaches special payout opportunities, but it is not clear whether these are a secondary event mode – i.e., a bonus game. Bonus games are notoriously well known in the art. They are used to add excitement to the game and attract players. Giobbi teaches such a bonus game. (Abstract) It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified Payne in view of Giobbi to include a secondary event mode (bonus game) in order to add excitement to the game and attract players.

Payne also fails to teach allowing the player to individually select the number of cells independently of one another. Giobbi teaches that scatter pay is well known to the art. In a scatter pay scheme, the winning symbols may appear at any place on the screen independently of one another and not connected by a payline. Giobbi teaches that scatter pay encourages players to wager multiple coins by increasing the chance of winning combinations. (Col 1, 64 – Col 2, 7) This increases casino profits. It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified Payne in view of Giobbi to allow the player to individually select the number of cells independently of one another in order to encourage players to wager multiple coins by increasing the chance of winning combinations, thus increasing casino profits.

**Claims 2, 23, 24:** Payne teaches that plurality of cells includes three rows and three columns of cells. (Fig 3) Payne discloses that the player selects from a number of different paylines. (Abstract) Each payline has a predetermined number of cells. (Fig 3)

Thus the selector includes a sensor to allow the player to select a predetermined number of cells.

Payne fails to teach individually selecting cells. Giobbi teaches that scatter pay is well known to the art. In a scatter pay scheme, the winning symbols may appear at any place on the screen independently of one another and not connected by a payline. Giobbi teaches that scatter pay encourages players to wager multiple coins by increasing the chance of winning combinations. (Col 1, 64 – Col 2, 7) This increases casino profits. It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified Payne in view of Giobbi to allow the player to individually select the number of cells independently of one another in order to encourage players to wager multiple coins by increasing the chance of winning combinations, thus increasing casino profits.

**Claims 3, 21:** Giobbi teaches that the game control is arranged to trigger a secondary event mode in response to a secondary event trigger condition. (Abstract)

**Claims 4, 25:** Payne teaches that the player may choose paylines that consist of any number of available cells from 1 to the total number of cells displayed. Thus the predetermined number of cells in a 9-element array would include one, three, five, seven or nine cells for selection by the selector.

Payne fails to teach individually selecting cells. Giobbi teaches that scatter pay is well known to the art. In a scatter pay scheme, the winning symbols may appear at any place on the screen independently of one another and not connected by a payline. Giobbi teaches that scatter pay encourages players to wager multiple coins by increasing the

chance of winning combinations. (Col 1, 64 – Col 2, 7) This increases casino profits. It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified Payne in view of Giobbi to allow the player to individually select the number of cells independently of one another in order to encourage players to wager multiple coins by increasing the chance of winning combinations, thus increasing casino profits.

**Claims 5, 26:** Payne clearly depicts a video display arranged to a simulation of a reel for each cell with each reel capable of presenting a plurality of said symbols. (Fig 2)

**Claims 6, 27, 42:** Giobbi teaches adjusting the probabilities of occurrence of a particular symbol based on the amount wagered. (Figs 6a-e) Since the number of cells selected is equivalent to the amount wagered, Giobbi teaches changing the probabilistic distribution of symbols available for random selection and presentation in each of the cells in response to the number of cells selected by the player. Giobbi uses a random generator to select the symbol in each cell.

**Claims 7, 28:** Payne's Fig 2a shows a pay-table defining winning combinations of symbols for each number of cells selectable by the player.

**Claims 8, 29:** Payne teaches that the random generator includes a lucky symbol generator for selecting one said symbol as a lucky symbol for providing an increased prize in response to a winning combination including said lucky symbol. (Col 5, 21-24) The "wild card" is a lucky symbol.

**Claims 9, 30:** Payne's Fig 2 shows a number of paylines. These paylines are predetermined number indicators for indicating on the display the number of cells selected by the player.

**Claims 10, 31:** Giobbi's Fig 5 shows a bet indicator for indicating the amount of a wager.

**Claims 11, 32:** Giobbi teaches that in response to said secondary event trigger, the game control is arranged to randomly select one of a plurality of positions (i.e., boats) and sending an object (i.e., fish) to one of said positions. (Col 5, 65 – Col 6, 15)

**Claim 22:** Giobbi teaches that the said secondary event trigger is the display of at least a predetermined number of a predetermined one of said symbols within said selected number of cells. (Col 1, 52-54)

4. Claims 12-19 & 33-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Payne and Giobbi as applied to claim 11 or 32 above, and further in view of Moody et al. (US Patent Number 5,976,016).

**Claims 12, 33:** Giobbi fails to teach that the positions comprise representations of planets and the object comprises a space ship. Instead, Giobbi adopts a fishing theme. Moody describes a space theme with representations of planets and spaceships. (Col 3, 44-58) Moody also makes it clear that any suitable symbols may be used. Game designers use graphics to create themes for gaming machines in order to add to player enjoyment. It would, however, have been obvious to one of ordinary skill in the art at the time of the invention to have the positions comprise representations of planets and the

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object comprises a space ship in order to illustrate a space theme in order to add to player enjoyment.

**Claims 13, 34:** Giobbi teaches an item selector (66) for allowing the player to select a predetermined number of items – the player may select one boat.

**Claims 14, 35, 38:** Giobbi teaches an evaluation station (i.e., the boat) and a transfer device for moving the items (i.e., fish) through space to the evaluation station. The fisherman reels in a fish that is evaluated to determine the award. (Col 5, 65 – Col 6, 15) Reeling in the fish is animation.

**Claims 15, 16, 19, 36, 37, 40:** These claims are all drawn to graphical representations intended to illustrate the chosen space theme. While not specifically taught by the prior art, these elements serve a purely ornamental function. Game designers use graphics to create themes for gaming machines in order to add to player enjoyment. It would, however, have been obvious to one of ordinary skill in the art at the time of the invention to have an evaluation station (in the form of a pawn shop) and includes a transfer device for moving the items through space to said evaluation station wherein said positions comprise representations of planets and said object comprises a spaceship and wherein said transfer device comprises the loading of said items onto said spaceship and said spaceship delivering said items to said pawnshop in order to illustrate a space theme in order to add to player enjoyment.

**Claim 17:** Giobbi teaches an award designator for awarding credits to the items at the evaluation station. (Col 5, 65 – Col 6, 15) The fish are different sizes and the size determines the amount of the award.



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**Claims 18, 39:** Giobbi Fig 5 show a credit indicator for indicating the total number of credits awarded. In the illustrated case, 450 credits were won.

***Response to Arguments***

5. Applicant did not present arguments.

***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Reference Name	US Patent Number	Applicability
Slomainy et al.	6,159,098	Scatter Pay
Bennett	6,190,254	Scatter Pay
Frohm et al.	6,234,897	Scatter Pay
Yoseloff et al.	6,471,208	Scatter Pay

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Corbett B. Coburn whose telephone number is (703) 305-3319. The examiner can normally be reached on 8-5:30, Monday-Friday, alternate Fridays off.

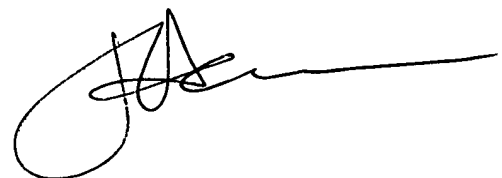
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Hughes can be reached on (703) 308-1806. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9302 for regular communications and (703) 872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.



cbc

July 1, 2003



JESSICA HARRISON  
PRIMARY EXAMINER